

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 96-4054

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Richard Mathis; Doyle Mathis;  
Leona Mathis; Scot Mathis,

Appellants,

v.

United States of America,

Appellee.

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\* Appeal from the United States

\* District Court for the

\* District of South Dakota.

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\* [UNPUBLISHED]

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Submitted: May 14, 1997

Filed: June 2, 1997

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Before HANSEN, MORRIS SHEPPARD ARNOLD, and MURPHY,  
Circuit Judges.

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PER CURIAM.

Richard, Doyle, Leona, and Scot Mathis appeal the district court's<sup>1</sup> dismissal of their 26 U.S.C. § 7433 unauthorized-collection action. We affirm.

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<sup>1</sup>The Honorable Charles B. Kornmann, United States District Judge for the District of South Dakota.

The Mathises brought this action against five federal employees. The district court granted the defendants' motion to substitute the United States as the defendant, and dismissed the Mathises' action, concluding that the individual named defendants could not be sued under section 7433; that section 7433 precluded an action against the individuals under Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971); and that the complaint failed to state a claim against the United States under section 7433.

Reviewing de novo, see First Commercial Trust Co., N.A. v. Colt's Mfg. Co., 77 F.3d 1081, 1083 (8th Cir. 1996), we agree with the district court that the Mathises could not bring an action against the named individuals under either section 7433 or Bivens. See 26 U.S.C. § 7433 (§ 7433 claim may be brought only against United States); Vennes v. An Unknown Number of Unidentified Agents of the United States, 26 F.3d 1448, 1453-54 (8th Cir. 1994) (no Bivens action against federal official where § 7433 provides remedy), cert. denied, 513 U.S. 1076 (1995). As the Mathises' action could be maintained only against the United States, the Mathises were not harmed by the district court's substitution of the United States as defendant. We agree with the district court that the Mathises failed to state a section 7433 claim against the United States. See Shaw v. United States, 20 F.3d 182, 184 (5th Cir.) (to prove § 7433 claim, plaintiff must demonstrate Internal Revenue Service's collection methods violated regulation or statute), cert. denied, 513 U.S. 1041 (1994). The Mathises' remaining arguments are unsupported and without merit. Accordingly, we affirm the judgment of the district court.

The Mathises' motion to supplement their appellate brief is denied.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS, EIGHTH CIRCUIT.